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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,353

09/10/2004

Frank Hundscheidt

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02/25/2009

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EXAMINER

BALAOING, ARIEL A

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

02/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/507,353		HUNDSCHIEDT ET AL.	
	Examiner		Art Unit	
	ARIEL BALAOING		2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/14/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10/14/2008 was filed after the mailing date of the Non-Final Office Action on 09/11/2008. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

2. Applicant's arguments filed 12/11/2008 have been fully considered but they are not persuasive.

3. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., associating the subscriber identification with a point-to-multipoint service identifier (page 9 of the remarks)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, see the rejections below regarding newly added limitations to the claims.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1, 6, 9-15, 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by WINCHELL et al (US 2002/0151321 A1).

Regarding claim 1, WINCHELL discloses a method of managing point-to-multipoint services in a mobile communication network **22** (abstract; paragraph 1-3), said method comprising: receiving from a mobile station [**communication device**] a request for accessing a point-to-multipoint service (Figure 7, 8), said request comprising a subscriber identifier of the subscriber placing the request and a point-to-multipoint service identifier of the point-to-multipoint service for which access is being requested (paragraph 33, 39, 43, 44; providing a subscriber identifier is inherently necessary to provide both billing and group setup. Parameters and/or mode of a group can be determined by requesting device), storing a subscriber identification for the subscriber placing the request in association with a point-to-multipoint service identification for the point-to-multipoint service for which access is being requested (paragraph 10, 39, 43), performing an access enabling procedure, providing accounting information to an accounting entity [**billing entity**] of said mobile communication network in which accounting for the point-to-multipoint service is performed considering a number of subscribers, who placed the request for accessing the point-to-multipoint service and a provider of the point-to-multipoint service, said accounting information identifying the subscriber who placed the request together with the point-to-multipoint service for which access was requested (paragraph 37, 38, 43; accounting determines a number of subscribers for billing purposes. Furthermore, account information identifies both initiator and group members of a group call), and sending to the accounting entity of the

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point-to-multipoint service accounting information [**activity log**] regarding the subscribers and the point-to-multipoint service, according to a tariff (paragraph 10, 33, 39; *billing module operable to receive the activity log and generate a bill having an amount due for each of the plurality of communication devices, wherein the amount due is discounted based on the tracked receipt of the predetermined message. As disclosed, charges are varied for each subscribers and therefore according to a tariff of some form, such as usage determination*).

Regarding claim 6, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein said accounting is also performed on the basis of the amount of data transported (paragraph 46; *billing based on amount of received messages*).

Regarding claim 9, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein after performing said access enabling procedure, waiting for the receipt of a service access confirmation, and said accounting information is only provided to said accounting entity if said service access confirmation is received (paragraph 45, 46; *billing based on a recorded usage time*).

Regarding claim 10, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein the subscriber identifications and associated point-to-multipoint service identifications are stored in a centralized point-to-multipoint service data base for said mobile communication network (paragraph 37, 38; Figure 2; *central billing log server*).

Regarding claim 11, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein a classification of point-to-multipoint services into categories is provided, said accounting information identifying the category of the point-to-multipoint service, and said accounting of the point-to-multipoint service is performed depending on the identified category (paragraph 37, 43-45; mode determination).

Regarding claim 12, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses further comprising storing one or more counter values in association with a stored subscriber identification and/or point-to-multipoint service identification (paragraph 37; participation time).

Regarding claim 13, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses further comprising: providing said one or more counter values as a part of said accounting information (paragraph 37; participation time).

Regarding claim 14, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein said one or more counter values comprise one or more of the following: a time counter value associated with each stored subscriber identification, indicating a time period that has passed since receiving a request from said subscriber, a time counter value associated with each stored point-to-multipoint service identification, indicating a time period that has passed since receiving a first request identifying said point-to-multipoint service, an event counter value associated with each stored subscriber identification, indicating a

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number of predetermined events that have occurred since receiving a request from said subscriber, and an event counter value associated with each stored point-to-multipoint service identification, indicating a number of predetermined events that have occurred since receiving a first request identifying said point-to-multipoint service (paragraph 37; participation time).

Regarding claim 15, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein said access enabling procedure comprises: sending an enable signal to a service provision control entity (paragraph 34, 35; communication manager determines if communication device is authorized).

Regarding claim 19, WINCHELL discloses a computer readable medium storing a computer program, the computer program for managing point-to-multipoint services in a mobile communication network (abstract; paragraph 1-3), the computer program product comprising: instructions for receiving from a mobile station a request for accessing a point-to-multipoint service (Figure 7, 8), said request comprising a subscriber identifier of the subscriber placing the request and a point-to-multipoint service identifier of the point-to-multipoint service for which access is being requested (paragraph 33, 39, 43, 44; providing a subscriber identifier is inherently necessary to provide both billing and group setup. Parameters and/or mode of a group can be determined by requesting device), instructions for storing a subscriber identification for the subscriber placing the request in association with a point-to-multipoint service identification for the point-to-multipoint service for which access is being requested

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(paragraph 39, 43), instructions for performing an access enabling procedure (paragraph 43, 44), and instructions for providing accounting information to an accounting entity [**billing module**] of said mobile communication network in which accounting for the point-to-multipoint service is performed considering a number of subscribers, who placed the request for accessing the point-to-multipoint service and a provider of the point-to-multipoint service (paragraph 10, 37, 38, 43), said accounting information identifying the subscriber who placed the request together with the point-to-multipoint service for which access was requested (paragraph 37, 38, 43; a number of subscribers is determined for billing purposes. Furthermore, account information identifies both initiator and group members of a group call); and instructions for sending to the accounting entity of the point-to-multipoint service accounting information [**activity log**] regarding the subscribers and the point-to-multipoint service, according to a tariff (paragraph 10, 33, 39; *billing module operable to receive the activity log and generate a bill having an amount due for each of the plurality of communication devices, wherein the amount due is discounted based on the tracked receipt of the predetermined message.* As disclosed, charges are varied for each subscribers and therefore according to a tariff of some form, such as usage determination).

Regarding claim 20, WINCHELL discloses an accounting entity of a mobile communication network **22**, said accounting entity comprising: a receiver for receiving accounting information (abstract; paragraph 1-3; it is further noted that a receiver, memory and processor would inherently be necessary to process and stored detailed billing records and account information), said accounting information identifying a

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subscriber placing a request for a point-to-multipoint service, and identifying a point-to-multipoint service for which access was requested a processor for performing accounting for the point-to-multipoint service identified in the accounting information considering a number of subscribers, who placed the request for accessing the point-to-multipoint service and a provider of the point-to-multipoint service (paragraph 33, 39, 43, 44; providing a subscriber identifier is inherently necessary to provide both billing and group setup. Parameters and/or mode of a group can be determined by requesting device), wherein said processor is arranged such that if said accounting information indicates the number of subscribers corresponding to all or a predetermined part of the subscribers currently stored by a point-to-multipoint service data base entity in association with said point-to-multipoint service, said accounting depends on the indicated number of subscribers (paragraph 37, 38, 43; a number of subscribers is determined for billing purposes. Furthermore, account information identifies both initiator and group members of a group call); and means for sending to the accounting entity of the point-to-multipoint service accounting information **[activity log]** regarding the subscribers and the point-to-multipoint service, according to a tariff (paragraph 10, 33, 39; *billing module operable to receive the activity log and generate a bill having an amount due for each of the plurality of communication devices, wherein the amount due is discounted based on the tracked receipt of the predetermined message. As disclosed, charges are varied for each subscribers and therefore according to a tariff of some form, such as usage determination).*

Regarding claim 21, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein said point-to-multipoint service data base entity comprises: a receiver for receiving from a mobile station a request for accessing a point-to-multipoint service (paragraph 37, 38, 43;), said request comprising a subscriber identifier of the subscriber placing the request and a point-to-multipoint service identifier of the point-to-multipoint service for which access is being requested, a memory for storing a subscriber identification for the subscriber placing the request in association with a point-to-multipoint service identification for the point-to-multipoint service for which access is being requested (paragraph 37, 38, 43), a processor for providing accounting information to an accounting entity of said mobile communication network, said accounting information identifying the subscriber placing the request, together with the point-to-multipoint service for which access was requested (paragraph 37, 38, 43). It is further noted that a receiver, memory and processor would inherently be necessary to process and stored detailed billing records and account information.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 2, 3, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over WINCHELL et al (US 2002/0151321 A1) in view of HERZOG et al., IEEE/ACM Transactions of Networking, Vol. 5, No. 6, "Sharing the "Cost" of Multicast Trees: An Axiomatic Analysis" (hereinafter HERZOG).

Regarding claim 2, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. WINCHELL further discloses wherein in addition to identifying a point-to-multipoint service, said accounting information indicates a number of subscribers (paragraph 37, 38; detailed account listing of users and billing). However, WINCHELL does not expressly disclose wherein said indicated number corresponding to all or a predetermined part of the subscribers currently stored in association with said point-to-multipoint service. In the same field of endeavor, HERZOG discloses wherein an indicated number corresponding to all or a predetermined part of the subscribers currently stored in association with said point-to-multipoint service (page 847, abstract, Section I (paragraph 2-4), Section II (paragraph 1-2); page 851, section IV-B; cost allocation dependent on upstream and downstream receivers). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify WINCHELL to include the teachings of HERZOG, since HERZOG states that such a modification would provide cost association based on a receivers network usage.

Regarding claim 3, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of WINCHELL and HERZOG further discloses wherein said accounting information depends on the indicated number of subscribers (HERZOG - page 847, page 847, abstract, Section I (paragraph 2-4), Section II (paragraph 1-2); page 851, section IV-B).

Regarding claim 7, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. However, WINCHELL does not expressly disclose

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wherein said accounting is performed differently for data transported from the mobile communication network to the mobile station than for data transported from the mobile station to the mobile communication network. In the same field of endeavor, HERZOG discloses wherein said accounting is performed differently for data transported from the mobile communication network to the mobile station than for data transported from the mobile station to the mobile communication network (page 847, page 847, abstract, Section I (paragraph 2-4), Section II (paragraph 1-2); page 851, section IV-B; cost allocation dependent on upstream and downstream receivers). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify WINCHELL to include the teachings of HERZOG, since HERZOG states that such a modification would provide cost association based on a receivers network usage.

Regarding claim 8, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of WINCHELL and HERZOG further discloses wherein billing is only performed for data transported from the mobile communication network to the mobile station or performed for data transported from the mobile station to the mobile communication network (WINCHELL – paragraph 37, 38; HERZOG - page 847, page 847, abstract, Section I (paragraph 2-4), Section II (paragraph 1-2); page 851, section IV-B; WINCHELL discloses billing based on usage, while HERZOG teaches that usage cost can be associated by either an upstream or downstream usage). Furthermore, it has been held that the omission of an element and

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its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over WINCHELL et al (US 2002/0151321 A1) in view of HERZOG et al., IEEE/ACM Transactions of Networking, Vol. 5, No. 6, "Sharing the "Cost" of Multicast Trees: An Axiomatic Analysis" (hereinafter HERZOG), and further in view of BRISCOE et al (US 2005/0286488).

Regarding claim 4, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of WINCHELL and HERZOG further discloses wherein said accounting information comprises billing and a billing decreases with an increasing indicated number of subscribers (WINCHELL – paragraph 37, 38; HERZOG - page 847, page 847, abstract, Section I (paragraph 2-4), Section II (paragraph 1-2); page 851, section IV-B; WINCHELL discloses billing based on usage, while HERZOG teaches that usage cost can be associated by either an upstream or downstream usage and cost to individual receivers can be decreased based on decrease usage compared to associated number of subscribers). However, the combination of WINCHELL and HERZOG does not disclose the use of a billing tariff. In the same field of endeavor, BRISCOE discloses wherein an accounting comprises billing and a billing tariff (abstract; paragraph 6, 37, 56). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify WINCHELL to include the teachings of BRISCOE, since BRISCOE states that

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such a modification would allow a varied tariff to a plurality of users based on a determined usage parameter.

Regarding claim 5, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of WINCHELL and HERZOG further discloses wherein said accounting comprises payment and a payment increases with an increasing indicated number of subscribers (WINCHELL – paragraph 37, 38, 45, 46). However, the combination of WINCHELL and HERZOG does not disclose the use of a payment tariff. In the same field of endeavor, BRISCOE discloses wherein an accounting information comprises payment and a payment tariff increase (abstract; paragraph 6, 37, 56). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify WINCHELL to include the teachings of BRISCOE, since BRISCOE states that such a modification would allow a varied tariff to a plurality of users based on a determined usage parameter.

9. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WINCHELL et al (US 2002/0151321 A1) in view of WAHL et al (US 2002/0089985).

Regarding claim 16, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. Although WINCHELL teaches the use of encryption and authorization, WINCHELL does not expressly disclose wherein said access enabling procedure comprises: sending one or more decryption keys to the mobile station from which the request for accessing a point-to-multipoint service was sent. In a similar field of endeavor, WAHL teaches wherein an access enabling procedure comprises: sending one or more decryption keys to a mobile station from

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which a request for accessing a point-to-multipoint service was sent (paragraph 6, 17). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify WINCHELL to include the teachings of WAHL, since such a modification would provide a secure connection between various communication links in a multicast system.

Regarding claim 17, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of WINCHELL and WAHL further discloses wherein an individual decryption key is provided in dependence on one or more of: each stored subscriber identification, each stored point-to-multipoint service identification, and each pair of a subscriber identification and point-to-multipoint service identification stored in association (WAHL – paragraph 6, 17, each subscriber requesting connection is provided a decryption key).

Regarding claim 18, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of WINCHELL and WAHL further discloses wherein said one or more decryption keys are generated dynamically in response to receiving said request for accessing a point-to-multipoint service (WAHL – paragraph 6, 17).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARIEL BALAOING whose telephone number is (571)272-7317. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Paul Harper can be reached on (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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